

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIONAL CITY HOME LOAN
SERVICES, INC., a Delaware corporation,

Plaintiff,

v.

DENNIS FOISY and JANE DOE FOISY,
individuals and the marital estate composed
thereof; and DENNIS FOISY TRUSTEE OF
PACIFIC VENTURES LANDHOLD, a trust,

Defendants.

No. C05-0373 RSM

ORDER DENYING DENNIS FOISY,
TRUSTEE OF PACIFIC VENTURE
LANDHOLD'S MOTION FOR
DEFAULT JUDGMENT

The above matter came before this Court on Dennis Foisy, Trustee of Pacific Ventures Landhold's Motion for Default Judgment (the "Motion"). The Court having considered the Motion, Plaintiff's Response to the Motion, and the pleadings and filed herein, the Court finds as follows:

1. The counterclaims ("Counterclaims") contained in Defendants' answer are premised on an alleged arbitration award (the "Alleged Arbitration Award") in favor of Dennis Foisy, Trustee of Pacific Ventures Landhold, a trust ("PVL Trust"), and were asserted on behalf of PVL Trust.

2. The Motion was brought on behalf of PVL Trust, and signed by Dennis Foisy.

ORDER DENYING DENNIS FOISY, TRUSTEE
OF PACIFIC VENTURES LANDHOLD'S MOTION
FOR DEFAULT JUDGMENT - 1
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3. Dennis Foisy is not an attorney licensed to practice law in the State of Washington or admitted to practice in the United States District Court for the Western District of Washington.

4. On March 25, 2005, the Court held that Dennis Foisy may not represent the PVL Trust in this litigation and found the PVL Trust to be in default.

5. Because the PVL Trust is in default, and may not appear pro se, neither the Counterclaims or Motion are properly before the Court.

5. PVL Trust would suffer no prejudice as a result of a denial of the Motion.

6. The Court has previously ruled that the Alleged Arbitration Award is meritless and without legal justification. Accordingly, the Counterclaims are without merit.

7. The Defendants offer no factual basis for the Counterclaims.

8. There is a dispute regarding material facts.

9. Plaintiffs had a justifiable belief that the Counterclaims required no answer.

Based on the above findings of fact, it is

ORDERED that Defendants' Motion for Default Judgment is denied in its entirety.

DATED this 16 day of May, 2005.

/s/ Ricardo S. Martinez
UNITED STATES DISTRICT JUDGE

Presented by:

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By /s/ David C. Neu

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ORDER DENYING DENNIS FOISY, TRUSTEE
OF PACIFIC VENTURES LANDHOLD'S MOTION
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